



**TESTIMONY BEFORE THE JOINT SENATE AND HOUSE BANKING
COMMITTEES**

June 23, 2010

My name is Denny Miller, Vice President of Chemical Bank and Chairman of the Legislative Committee of the Michigan Mortgage Lenders Association. Thanks for the opportunity to testify on the impact of Public Acts 29-31 of 2009, Michigan's Foreclosure Prevention Law.

Let me first indicate that the impact of the law is somewhat difficult to determine because it became effective shortly after the launching of the federal Home Affordable Modification Program (HAMP), which has the same objectives and some similarity in procedures to the Michigan law.

I must state that the information we provide is based on a relatively small number of responses we received from our members in response to our request for input. The information should not be viewed as a scientific representation of our Michigan servicers experience with the law.

Information provided by responding servicers indicated that typically less than 30 percent of recipients of the required pre-foreclosure notice responded by requesting a meeting with their servicer. Anecdotally, some of our smaller servicers reported that none of the borrowers that responded qualified or accepted a modified loan. Some indicated that those that would have qualified were previously offered modifications through their normal loss mitigation servicing process. One servicer, since the law's effective date, sent out 164 pre-foreclosure letters.

Twenty five percent of the recipients responded with most of those respondents already working with the servicers loss mitigation department. Over half of the respondents did not cooperate by failing to provide required documentation or by rejecting loan modifications that were offered. Of the 164 that received the mailing only 13 percent actually scheduled and attended a meeting and only 5 percent entered into an arrangement to avoid foreclosure.

Most of our respondents reported that more than 50 percent of the borrowers that requested a meeting failed to provide required documentation to make a determination about a possible modification. In some cases lenders have initiated foreclosure when the borrower did not provide within 90 days the required documentation, but was subsequently sued by the borrower to block the foreclosure. Additionally, there have been undue delays in scheduling meetings with servicers or their agents. There are reported cases of homeowners rescheduling meetings due to vacation plans or simply for appointments for haircuts or other personal reasons.

One of the unintended consequences of the law is that it provides a disincentive for early efforts to assist borrowers. A proactive servicer that may wish to engage a borrower informally to discuss a loan modification may no longer pursue this option, because if the effort did not succeed they would be required to repeat the process under Public Acts 29-31.

It is clear that the most significant problem with the Michigan Foreclosure Law is the failure of homeowners who responded to the pre-foreclosure notice to provide financial information in a timely manner to determine a borrower's eligibility for a modification. The law needs to include a shorter specific deadline to provide documentation. Failure to meet this deadline would permit the lender or servicer to commence foreclosure action. Such a provision would provide a strong incentive for homeowners to provide the required documentation in a timely manner.

Once again, thanks for the opportunity to present testimony on this important issue. I would be happy to answer any questions the Joint Committee might have.